

Application No.: 10/539,652
Filing Date: June 14, 2005

REMARKS

Applicant has reviewed and considered the Office Action mailed April 8, 2008.

Response to the Obviousness Rejections

Applicant has reviewed and considered the Office Action and the cited references mailed April 8th, 2008.

In response thereto, independent claim 1 has been amended. As a result, claims 1, 3-8 and 10-16 are still presently pending in the application.

Claims 1, 3-5, 9 and 14 were rejected under 35 U.S.C. 103(a) as being unpatentable over McGRIFF (US Patent 4,210,184) in view of STROUD (US Patent 4,947,909). Claims 6-8 were rejected under 35 U.S.C. 103(a) as being unpatentable over McGRIFF (US Patent 4,210,184) in view of STROUD (US Patent 4,947,909) and in further view of RICHARDSON (US Patent 2,169,394). Claims 10-13 were rejected under 35 U.S.C. 103(a) as being unpatentable over McGRIFF (US Patent 4,210,184) in view of STROUD (US Patent 4,947,909) and in further view of RICHARDSON (US Patent 2,169,394) and still further view of JANSSEN (US Patent 4,637,443). Claims 15-16 were rejected under 35 U.S.C. 103(a) as being unpatentable over McGRIFF (US Patent 4,210,184) in view of STROUD (US Patent 4,947,909) and in further view of SELLERS, Jr. et al. (US Patent 3,844,399), herein referred to as SELLERS.

The above-mentioned obviousness rejections are respectfully traversed for the following reasons:

Section 2141.02 of the MPEP, part I, clearly mentions that "*In determining the differences between the prior art and the claims, the question under 35 U.S.C. 103 is not whether the differences themselves would have been obvious, but whether the claimed invention as a whole would have been obvious.*".

Thus, Applicant respectfully asserts that it is wrong to simply assume that it would have been obvious to a person with ordinary skill in the art, to combine the scanner of STROUD with the teachings of McGRIFF, in order to allegedly easily arrive to the present invention, as defined in former independent claim 1.

Indeed, it is respectfully submitted that, contrary to what is required by 2143.03 of the MPEP, several important claims limitations have been left out during the obviousness analysis reported in the last Office Action, and also that there is no teaching, suggestion or even motivation to combine McGRIFF with STROUD, as also will be explained in greater detail hereinbelow.

Nonetheless, former independent claim 1 has been amended so as to define the present invention (namely, by slightly reordering the presentation of original wording, and/or by adding further limitations thereto, taken from the specification and/or claims as originally filed), so as to thus even better highlight the various innovative components and features of the present invention considered patentably distinguishable and inventive over the prior art cited, namely McGRIFF (US Patent 4,210,184) and STROUD (US Patent 4,947,909). These various innovative components and features are supported by the text and figures of the present application as originally filed. Thus, it is respectfully submitted that no new matter has been introduced with the present amendment.

It is also respectfully submitted that amended independent claim 1 now defines distinctively and in explicit terms the subject matter of the invention, and that this subject matter clearly distinguishes itself in a patentable manner over the prior art, and more particularly over McGRIFF and STROUD.

Indeed, in paragraph No. 6 of the Office Action (see namely page 5), the Examiner mentions that McGRIFF seems to disclose all the components and features of former independent claim 1, except for the "*evaluating means for evaluating the plank representing at least one parameter of the plank and generating a signal representing that at least one parameter for operating the displacing means, ...*", and that "*it would have been obvious to one having ordinary skill in the art at the time of the invention to have similarly provided a scanning/automated system on the McGRIFF resaw apparatus to enable a scanning and subsequent roll positioning system based upon the generated scanned input signal as taught by a STROUD to automatically manipulate the McGRIFF feeding apparatus, eliminating additional operator assistance*".

It is important to note that the present invention does not only lie on the above-mentioned aspects.

Furthermore, it is respectfully submitted that not only does McGRIFF not teach or even suggest all the components and features of the present invention, as now defined in amended independent claim 1, but also, that important component and features of the present invention, defined in former independent claim 1, have been overlooked, as briefly explained herein, and as will be better understood when contrasting Figure 1 of McGRIFF with Figures 3-13 of the present application.

Firstly, according to McGRIFF, the apparatus is a "resawing" apparatus (see title, abstract, background and specification), where *"in operation of the apparatus, a cant 30 to be cut, ordinarily for reduction to two or more pieces of smaller width, is placed upon the conveyor 22 and thereafter moved in the direction of the arrows 32 longitudinally along a predetermined linear path into the feed mechanism 16"* (see column 4, lines 44-49). Namely, the apparatus according to McGRIFF is used to cut the cant *"longitudinally along a predetermined line with respect to the sides of the cant, ordinarily the center line though not necessarily, producing two finished boards 34 and 36 which leave the resaw"* (see column 4, lines 53-56). In short, McGRIFF teaches an apparatus for resawing a cant 30 longitudinally into two or more smaller longitudinal pieces, the original cant 30 having been already previously sawn and thus been originally uniform (i.e. having straight side edges, deprived of taper, etc.).

In contrast, the apparatus according to the present invention is intended and used for an entirely different purpose, namely *"curve sawing"*, that is, for processing side edges of a non-uniform plank, so as to produce a resulting single and more uniform plank with finished side edges. As a result thereof, in order to accomplish this different objective and corresponding end result, the apparatus according to the present invention requires different components and different features, operating in a completely different manner, than those of McGRIFF, as now defined in amended independent claim 1, and as explained hereinbelow.

Secondly, according to McGRIFF, only a single and unique drive mechanism is provided, this single and unique drive mechanism is being provided *"by two sets of cylindrical, vertically-oriented rollers disposed on opposite sides of a predetermined cant feed path, between which the cant is pinched and by which the cant is urged against the saw blade"* (see column 2,

lines 47-50) and *"each set of rollers is mounted on a separate carriage along with a corresponding hydraulic drive motor, the two motors being connected in series for synchronization"* (see column 2, lines 62-65). In short, McGRIFF teaches an apparatus where guide and drive elements of the "first" mechanism (84,84) (referred to as such by the Examiner), are not displaceable independently and at an angle with respect to the guide and drive elements of the "second" mechanism (82,82). In fact, and as can be better appreciated when referring to Figure 1 of McGRIFF, elements 82 and 84 act as a single and unique drive mechanism, given that element 84 of a given side is not independently displaceable, nor at an angle, with respect to its counterpart element 82.

In contrast, the apparatus according to the present invention, as now defined in amended independent claim 1, does indeed comprise these important components and features (*guide and drive elements from the first mechanism being displaceable independently and at an angle with respect to the guide and drive elements from the second mechanism*), with resulting advantages (namely, but not limitedly: better positioning, contour shaping, supporting, etc. and driving of a plank for curve sawing thereof in response to a given parameter or particular profile of said plank, whether imperfections on side edges of the plank to be processed, taper of the plank, etc.).

Thirdly, according to McGRIFF, *"the two sets of rollers and corresponding drive motors are mounted respectively on carriages 88 and 90 located on opposite sides of the cant path, and each of the carriages is movably attached by a pair of slides 92 to the frame 10 for permitting the carriages to be positioned with respect to the saw blade for adjusting the separation, centering and alignment of the carriages, and thus the rollers"* (see column 6, lines 14-21). In short, McGRIFF teaches an apparatus where the guide and drive elements of the first mechanism and those of the second mechanism are displaced dependently, by a single carriage (for example, as better shown in Figure 1 of McGRIFF, upper carriage 88 simultaneously displaces the elements of upper so-called "first" and "second" mechanisms 82 and 84, and lower carriage 90 simultaneously displaces the elements of lower so-called "first" and "second" mechanisms 82 and 84. Therefore, according to McGRIFF, elements 82 and 84 on a same side are not intended to be independently displaced with respect to one another, nor at an angle.

In contrast, the apparatus according to the present invention, as now defined in amended independent claim 1, does indeed comprise these important components and features (*displacing*

means for displacing the guide and drive elements from the second mechanism in parallel and equidistant in relation to the path, in response to the signal, and for displacing the guide and drive elements from the first mechanism independently and at an angle with respect to the guide and drive elements from the second mechanism, etc.), with resulting advantages (namely, but not limitedly: better positioning, contour shaping, supporting and driving of a plank for curve sawing thereof in response to a given parameter or particular profile of said plank, whether imperfections on side edges of the plank to be processed, taper of the plank, etc.).

Fourthly, according to McGRIFF, only the roller edges are in contact with the cant to be resawed (see, for example, edges of rollers 82 on Figure 4 of McGRIFF), and to a certain extent, this is sufficient in that the rollers 82 according to McGRIFF are not displaceable independently and at an angle with respect to one another, and need only to drive the smooth surfaces of a cant having been previously sawed (i.e. a uniform cant). Thus, McGRIFF only teaches a unique guide and drive mechanism providing a exterior contact line. Thus, as can be easily understood, such elements (i.e. rollers 82) of this feed mechanism according to McGRIFF would jam if they had to receive thereinbetween a plank having side edges comprising imperfections (knots, etc.) or a plank having a taper, etc.

In contrast, and according to the present invention, as now defined in amended independent claim 1, the guide and drive elements of the mechanisms located on a same side of the path are connected by a pivot axis, and are provided with an endless belt having an exterior contact surface for cooperating with the plank to be guided. This is particularly advantageous in that by virtue of the cooperation and features of the guide and drive elements of both the first and second mechanisms, as defined in amended independent claim 1, the elements of the first mechanism may be displaced independently and at an angle with respect to the elements of the second mechanism via the pivot axis, and while providing a greater contact surface against the plank via the endless belt, to better position, maintain and drive a plank in response to a given parameter or particular profile of said plank, even though it may comprise imperfections (knots, etc.) or a taper, etc. In fact, the apparatus according to the present invention, as now defined in amended independent claim 1, was particularly designed for such applications.

Finally, it is worth noting that because the apparatus according to McGRIFF is an apparatus for resawing a cant 30 longitudinally into two or more smaller longitudinal pieces, the

original cant 30 having been already previously sawn and thus been originally uniform (i.e. having straight side edges, deprived of taper, etc.), as explained above, Applicant asserts that a person skilled in the art would not be inclined to combine the scanning system of STROUD on the McGRIFF apparatus because a person skilled in the art would recognize that the McGRIFF device has no need for it, given that the apparatus according to McGRIFF is intended to resaw uniform cants (i.e. having been previously sawed, and thus having straight side edges, deprived of imperfections and/or taper, etc.), which therefore need not to be scanned in order to obtain a particular profile thereof prior to being resawed.

Furthermore, Applicant respectfully submits that it would not have been obvious for a person skilled in the art, without any particular ingenuity, to modify the device described in McGRIFF and/or STROUD, in order to arrive to the present invention, as now defined in new amended independent claim 1, to include the structural and functional differences between the present invention and those of the references cited (*ex. apparatus is intended for curve sawing a plank, in response to at least one parameter thereof; the apparatus comprises displacing means for displacing the guide and drive elements from the second mechanism in parallel and equidistant in relation to the path, in response to the signal, in addition to displacing means for displacing the guide and drive elements from the first mechanism independently and at an angle with respect to the guide and drive elements from the second mechanism; the guide and drive elements of the mechanism located in the same side of the path are connected by a pivot axis, and are provided with an endless belt having an exterior contact surface for cooperating with the plank to be used; the guide and drive elements of the first mechanism are displaceable independently and at an angle with respect to the drive and guide elements from the second mechanism, etc.*), as well as the resulting advantages being substantial, as briefly mentioned hereinabove.

Another substantial structural and functional difference between the present invention and McGRIFF is that pressure exerted by the rollers onto the cant is done indirectly by the pressure of the carriage on which the rollers are mounted (i.e. rollers are moved synchronously by a single carriage which transmits pinching pressure to the cant indirectly via the rollers), whereas according to the present invention, and as defined in amended independent claim 1, in addition to having "*at least one of the guide and drive elements of the second mechanism is mounted onto*

the at least one support plate so as to be displaceable transversally in relation to the path", "the first and second mechanisms each comprise means for independently exerting a pressure onto their respective guide and drive elements on each side of the plank in response to the signal".

Another substantial advantage of the present invention, resulting from having "guide and drive elements from the first mechanism being displaceable independently and at an angle with respect to the guide and drive elements from the second mechanism", operating in the manner explained above (with pivot axis, endless belt, etc.), as defined in amended independent claim 1, is that, from a practical point of view, one is able to adjustably guide and drive a "rearward" portion of the plank via the first mechanism, for improved support and control thereof, without necessarily affecting the "frontward" portion of the plank being guided and driven by the second mechanism, towards the cutting tools for curve sawing (i.e. processing of side edges of the plank). Thus, the first mechanism according to the present invention acts somewhat as an extension mechanism so as to handle and/or compensate for imperfections, tapers, and/or other parameters which may be present in the plank to be processed, prior to guiding and driving the plank from the first mechanism to the second mechanism.

Section 2143.01 of the MPEP, part IV, also adds that "A statement that modifications of the prior art to meet the claimed invention would have been "well within the ordinary skill of the art at the time the claimed invention was made" because the references relied upon teach that all aspects of the claimed invention were individually known in the art is not sufficient to establish a *prima facie* case of obviousness without some objective reason to combine the teachings of the references. *Ex parte Levengood*, 28 USPQ2d 1300 (Bd. Pat. App. & Inter. 1993). "[R]ejections on obviousness cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." *KSR*, 127 S.Ct. 1727, at 1741, 82 USPQ2d at 1396 quoting *In re Kahn*, 441 F.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006)."

Because the capacities of the present invention (i.e. curve sawing, that is, processing side edges of various different types planks which may comprises imperfections, tapers, etc.), and the various corresponding components and features of the present invention, as mentioned above and now defined in new amended independent claim 1, employed to accomplish such capacities, are materially contrary and/or different to the understandings and expectations of the art cited

Application No.: 10/539,652
Filing Date: June 14, 2005

(McGRIFF and/or STROUD), the apparatus according to the present invention would not have been obvious to a person with ordinary skill in the art.

Applicant respectfully submits that the other references cited, namely RICHARDSON (US Patent 2,169,394), JANSSON (US Patent 4,637,443) and SELLERS, Jr. et al. (US Patent 3,844,399), need not be discussed, insomuch as amended independent claim 1 is considered patentably distinguishable and inventive over McGRIFF and STROUD.

Hence, in view of the above modifications and information, the Applicant respectfully submits that currently amended independent claim 1 is new and inventive, as explained above. Since claims 3-8 and 10-16 depend all directly or indirectly on claim 1, and since these dependent claims define distinctively the subject matter which the Applicant regards as his invention, it is believed that these dependent claims are also new and non-obvious, and thus allowable.

It is to be understood though that no admission is made nor implied by the present amendment as to the fact that the prior art cited may be relevant. Indeed, this amendment is made solely to expedite the prosecution of the present application.

In particular, although the present communication may include alterations to the application or claims, or characterizations of claim scope or referenced art, the Applicant is not conceding in this application that previously pending claims are not patentable over the cited references. Rather, any alterations or characterizations are being made to facilitate expeditious prosecution of this application. The Applicant reserves the right to pursue at a later date any previously pending or other broader or narrower claims that capture any subject matter supported by the present disclosure, including subject matter found to be specifically disclaimed herein or by any prior prosecution. Accordingly, reviewers of this or any parent, child or related prosecution history shall not reasonably infer that the Applicant has made any disclaimers or disavowals of any subject matter supported by the present application.

In view of the above, it is respectfully submitted that the present application is in a condition for allowance, reconsideration of the present application and a favourable response are respectfully requested.

Application No.: 10/539,652
Filing Date: June 14, 2005

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: _____

June 9, 2008

By: _____

[Signature]

Daniel Hart

Registration No. 40,637

Attorney of Record

Customer No. 20,995

(619) 235-8550

5491814
060908